

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

EDMUND GUDENAS

Plaintiff,

VS.

BILL CERVENIK, et al.,

Defendants.

CASE NO. 1:09CV2169

JUDGE CHRISTOPHER A. BOYKO

ORDER

This Court has reviewed the Report and Recommendation (Doc.#) of Magistrate Judge McHargh regarding Defendants' Motion to Dismiss (Doc.# 7) and Plaintiff's Motion to Convert Defendants Motion to a Motion for Summary Judgment, (Doc.# 13).

FED. R. CIV.P. 72(b) provides that objections to a Report and Recommendation must be filed within ten (10) days after service, but both Plaintiff and Defendants has failed to timely file any such objections. Therefore, the Court must assume that both are satisfied with the Magistrate Judge's recommendation. Any further review by this Court would be a duplicative and inefficient use of the Court's limited resources. Thomas v. Arn, 728 F.2d 813 (6th Cir. 1984), aff'd, 474 U.S. 140 (1985); Howard v. Secretary of Health and Human Services, 932 F.2d 505 (6th Cir. 1991); United States v. Walters, 638 F.2d 947 (6th Cir.1981).

Therefore, the Court adopts in full the Report and Recommendation (Doc.# 16) and the Motion to Dismiss (Doc. #7) is granted in part, and denied in part. The Motion to Dismiss is granted as to the right to privacy claim alleged under the First Amendment, and

granted as to the failure to investigate claim alleged under the Fourteenth Amendment. The motion is denied on the Fourth Amendment claim, and denied as to qualified immunity in regard to that claim. The Motion to Convert (Doc.#13) is denied, because the Court does not rely on the exhibits and other materials beyond the pleadings to rule on the Motion to Dismiss.

IT IS SO ORDERED.

Dated: March 16, 2010

S/Christopher A. Boyko
CHRISTOPHER A. BOYKO
UNITED STATES DISTRICT JUDGE